

CR # 02-1647-035

AFFIDAVIT OF BRIAN TOMASETTA

I, Brian Tomasetta, being duly sworn, depose and state as follows:

1. I am a Special Agent of the United States Department of Justice, Drug Enforcement Administration ("DEA"), and have been so employed for the past twelve years. I am presently assigned to the Boston Field Division. Prior to joining the DEA, I was a State Trooper in Vermont for approximately two years. In connection with my duties and responsibilities as a DEA Special Agent, I have received extensive training in the field of narcotics investigation and enforcement. I have also participated in approximately 200 investigations relating to the possession, distribution, and manufacturing of controlled substances, including marijuana, heroin, cocaine, crack cocaine, and other controlled substances. I have also participated in various aspects of investigatory work, including surveillance and undercover narcotics purchases, and have participated in approximately 100 narcotics-related arrests and the execution of approximately 50 narcotics-related search warrants.

2. I submit this affidavit in support of a criminal complaint and arrest warrant for Jorge Humberto ZARAZUA ("ZARAZUA"), DOB: 01-25-1967, and Gabriel ESCAMILLA ("ESCAMILLA"), DOB: 11-10-50, charging them with conspiracy to distribute, and to possess with intent to distribute, marijuana,

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a Schedule I controlled substance, on or about December 2, 2001.

3. This affidavit is based on my personal knowledge, training and experience, as well as upon my conversations with other law enforcement agents who have participated in the investigation and my review of reports prepared by them. This affidavit does not set forth all the facts developed during the course of this investigation. Rather, it sets forth only those facts that I believe are necessary and sufficient to establish probable cause to believe that ZARAZUA and ESCAMILLA knowingly and intentionally conspired with others to distribute, and to possess with intent to distribute, marijuana, on or about December 2, 2001, in violation of Title 21, United States Code, Sections 846 and 841 (a)(1).

BACKGROUND

4. During the course of this investigation, on or about December 1, 2001, I was advised by New York Police Department (Queens Narcotics Unit) Detective Stephen Scalza, that a previously reliable Cooperating Witness ("CW"), who was working with the detective's unit, was aware of a load of marijuana which was enroute to the EZ MINI-STORAGE facility located on 336 Speen Street in Natick, Massachusetts. The CW told Detective Scalza that approximately 1,400 pounds of marijuana were going to be delivered to the EZ MINI-STORAGE facility in Natick on December 2, 2001 at approximately 8:00 p.m. The CW told

Detective Scalza that the load of marijuana would be placed inside building #9, in Room 930 at the storage facility. The CW told the detective that the CW had the code to the entry gate of the storage facility. To enter the EZ MINI-STORAGE facility, the drivers would have to use this code.

5. The CW further stated that this load was being transported from Los Angeles to Massachusetts on a tractor-trailer unit by two (2) truck drivers. These two truck drivers were employed by the CW's trucking company. The CW identified these drivers as Jorge VARAVUA and Gabriel LNU (last name unknown). According to the CW, the two drivers were aware that they were transporting marijuana. The CW had given the gate entry code of the storage facility to the drivers.

DELIVERY OF MARIJUANA ON DECEMBER 2, 2001

6. On or about December 1, 2001 and December 2, 2001, the CW was in contact with the two drivers as they made their way to Massachusetts. During these phone calls, the drivers informed the CW of their progress and expected arrival in Natick.

7. On or about December 2, 2001, DEA agents in the Boston Field Office and personnel from other law enforcement agencies established surveillance in the area of the EZ MINI-STORAGE in Natick, Massachusetts.

8. At approximately 7:38 p.m., Det. Scalza informed me, based upon information from the CW, that the tractor-trailer unit

would be arriving at EZ MINI-STORAGE in approximately twenty minutes, at approximately 8:00 p.m.

9. At approximately 8:19 p.m., the agents on surveillance observed a tractor-trailer unit exit the Massachusetts Turnpike in Natick at Exit 13. Based on surveillance, it appeared that the drivers initially were having difficulty locating the EZ MINI-STORAGE facility.

10. At approximately 8:35 p.m., surveillance agents observed the tractor-trailer unit enter the EZ MINI-STORAGE facility. Surveillance agents noted that the tractor was yellow in color and that the trailer was white with the words "Roads West Phoenix, Arizona" printed on the side.

11. Surveillance agents observed that, once inside the storage facility, the driver of tractor-trailer unit performed a series of turns in order to align the vehicle between buildings #9 and #10.

12. DEA Task Force Agent ("TFA") Shaun Santos then observed the tractor-trailer unit stop at the south end of building #9. TFA Santos then observed a white male emerge from the passenger's side of the cab of the tractor-trailer unit. He observed that this individual was between 40-50 years old, approximately 5'9" tall, weighing approximately 200 pounds, with white hair and wearing a white baseball cap, jeans and white colored sneakers. This individual was later identified as ESCAMILLA (and will be

referred to hereafter as ESCAMILLA). TFA Santos then observed ESCAMILLA open the rear doors of the trailer.

13. TFA Santos then observed another white male emerge from the driver's side, cab portion of the tractor-trailer unit. TFA Santos observed this male to have dark hair, a dark beard, wearing jeans and an outer waist length jacket emblazoned with a logo of "VERIZON". This individual was later identified as Jorge Humberto ZARAZUA (and will be referred to hereafter as ZARAZUA).

14. At approximately 8:49 p.m., TFA Santos observed ZARAZUA walk to the fence area of the storage facility while utilizing a cellular phone. TFA Santos observed ZARAZUA continue speaking on the cellular phone for several minutes. TFA Santos then observed ZARAZUA, who had emerged from the driver's side of the cab, enter building #9.

15. Meanwhile, ESCAMILLA was climbing into the trailer portion of the tractor-trailer unit, and was arranging cardboard boxes towards the rear of the trailer. A short time later, TFA Santos observed ZARAZUA exit building #9, with a two-wheel dolly. TFA Santos observed ZARAZUA begin loading the dolly with the cardboard boxes, which ESCAMILLA had arranged at the rear end of the trailer. TFA Santos observed ZARAZUA place two cardboard boxes onto the dolly. TFA Santos estimated the size of the brown cardboard boxes to be approximately 1.5' by 2'. TFA Santos observed ZARAZUA move the dolly containing the two cardboard

boxes into building #9. According to TFA Santos, these boxes appeared to be very heavy due to the manner in which they were handled.

16. While ZARAZUA entered building #9, TFA Santos observed ESCAMILLA continuing to load cardboard boxes from the interior of the trailer onto the rear end of the trailer. A short time later, TFA Santos observed ZARAZUA exit building #9 with an empty dolly. TFA Santos saw ZARAZUA load two more cardboard boxes, onto the dolly and re-enter building #9.

17. At approximately 8:51 p.m., TFA Santos observed one of the boxes being loaded from the rear of the trailer spill open. Some of the contents of the box spilled out and TFA Santos observed several packages in brick form which were shrink-wrapped in a plastic material. TFA Santos observed ESCAMILLA toss these shrink-wrapped blocks back into cardboard boxes being loaded onto the dolly by ZARAZUA. Based on his training and experience, TFA Santos believed that these shrink-wrapped packages were consistent in appearance and shape with bricks of marijuana.

18. Surveillance of the two individuals continued and ESCAMILLA and ZARAZUA were observed continuing to unload the boxes from the tractor-trailer unit into building #9 in the manner described above. ZARAZUA made approximately seven separate trips from the tractor-trailer unit into building #9, each time carrying two cardboard boxes by dolly.

19. After ZARAZUA's seventh trip into building #9, TFA Santos observed ZARAZUA emerge from building #9 without the dolly. At approximately 8:59 p.m., TFA Santos observed ESCAMILLA exit the trailer, and close the cargo doors of the trailer. TFA Santos observed ESCAMILLA walk down the passenger side of the trailer and ZARAZUA enter the cab portion of the tractor trailer. The tractor-trailer unit was then observed leaving the EZ MINI-STORAGE front gate.

20. Between the departure of ESCAMILLA and ZARAZUA from the storage facility on December 2, 2001 until law enforcement agents' entry of the facility of December 4, 2001, surveillance units maintained surveillance of building #9 at the storage facility. No one was observing removing any items from building #9 during that time.

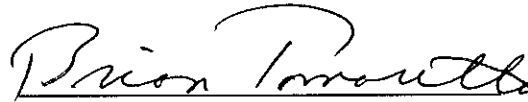
21. On or about December 4, 2001, DEA special agents, including me, returned to the EZ MINI-STORAGE facility to retrieve the boxes that had been delivered two days earlier by ESCAMILLA and ZARAZUA. With the consent of the CW, who had rented room #930 in his name, we entered room #930 in building #9. There, we found fourteen brown cardboard boxes. Each box contained numerous packages on different sizes in shrink-wrapped packaging. These packages were consistent with the packages that TFA Santos had observed spill out of one of the boxes that ESCAMILLA was unloading from the tractor-trailer unit on December

2, 2001. Representative samples of these packages were taken and field-tested positive for the presence of marijuana, a Schedule I controlled substance.

22. The representative samples of the packages seized from the storage facility were subsequently analyzed by the DEA Laboratory. The samples tested positive for the presence of marijuana. The approximate weight of the marijuana was 1504 pounds.

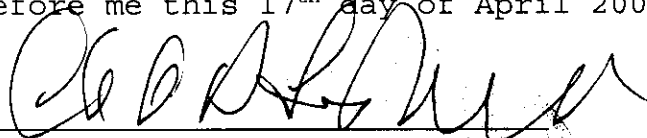
23. On or about April 6, 2002, ESCAMILLA and ZARAZUA were arrested while driving in a tractor-trailer unit in Arkansas. The trailer bore the same markings as the tractor-trailer unit that they had used to make the December 2nd delivery to Massachusetts. Their tractor-trailer unit was stopped at a truck inspection station. Upon a consent search of the vehicle, approximately 100 kilograms of cocaine were discovered in the tractor cab of the vehicle. ESCAMILLA and ZARAZUA were charged with possession of a controlled substance with intent to deliver. During the booking process, they were identified as ESCAMILLA and ZARAZUA and were photographed. TFA Shaun Santos has observed the booking photographs of ESCAMILLA and ZARAZUA and identified them as the individuals who drove the tractor-trailer unit into the EZ MINI-STORAGE facility on December 2, 2001 and unloaded the boxes from the tractor-trailer unit into building #9.

24. Based on the foregoing, there is probable cause to believe that ZARAZUA and ESCAMILLA knowingly and intentionally combined, conspired, confederated and agreed with other persons, known and unknown, to distribute, and to possess with the intent to distribute, marijuana, a Schedule I controlled substance, on or about December 2, 2001, in violation of Title 21, United States Code, Sections 846 and 841 (a)(1).



BRIAN TOMASETTA,
DEA Special Agent

Subscribed and sworn to before me this 17th day of April 2002.



CHARLES B. SWARTWOOD, III
UNITED STATES MAGISTRATE JUDGE

